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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/774,442  | 02/10/2004  | Richard L. Denike    | 48941-A             | 1694             |
| 2048  | 7590        | 02/18/2005           | EXAMINER            |                  |
| KIRBY EADES GALE BAKER<br>BOX 3432, STATION D<br>OTTAWA, ON K1P 6N9<br>CANADA |             |                      | GORDON, STEPHEN T   |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3612                |                  |

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|  |                            |                  |
|--|----------------------------|------------------|
| <i>R</i><br><b>Office Action Summary</b> | Application No.            | Applicant(s)     |
|  | 10/774,442                 | DENIKE ET AL.    |
|  | Examiner<br>Stephen Gordon | Art Unit<br>3612 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 and 14-19 is/are rejected.
- 7) Claim(s) 7-13 and 20-26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-10-04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

#### DETAILED ACTION

1. The disclosure is objected to because of the following informalities: on page 8 – line 29 “centre” should be –center–, note U.S. spelling of “center” is used other places in the specification.

Appropriate correction is required.

2. Claims 7-13 and 20-26 are objected to under 37 CFR 1.75(c) as being in improper form because of a multiple dependent claim format which depends from a multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 7-13 and 20-26 have not been further treated on the merits.

3. Claims 1-6 and 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, “said handle” in line 9 and “said handle” in line 11 lack clear antecedent basis and should each apparently be –said handle means—for consistency/clarity (2 places total).

Re claim 6, “does not protrude above said valve assembly” is somewhat confusing, when is this true? When the handle is open? When the handle is closed? Etc.

Re claim 14, “said handle” in line 7 and “said handle” in line 9 lack clear antecedent basis and should each apparently be –said handle means—for consistency/clarity (2 places total).

Re claim 19, "does not protrude above said valve assembly" is somewhat confusing, when is this true? When the cylinder(s) are in the compartment? Etc.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 and 14-19, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Gould '368.

Re claims 1 and 14, Gould teaches a portable cylinder holder including frame means 9+ defining a compartment as broadly claimed and handle means (e.g. 20, 26, 31+) rotatable between a closed retaining position (e.g. see horizontal position of element 20 in figure 2) and an open position.

Re claims 2, 3, 15, and 16, the device is deemed constructed as broadly claimed.

Re claims 4 and 17, the device is comprised of steel.

Re claims 5 and 18, at least elements (27, 32, etc.) define a shaft portion and the pivotal bar elements (e.g. 26, 31+) define a grasping portion as broadly claimed.

Re claims 6 and 19, the cylinders show valves at the top, and the grasping portion (e.g. 26, 31+) does not extend above the valves.

With further regard to claim 14, the device defines multiple compartments for cylinders as broadly claimed.

6. Claims 14-18, as best understood, are alternatively rejected under 35 U.S.C. 102(b) as being anticipated by Williams '117.

Re claim 14, Williams teaches a portable cylinder holder including frame means 34+ defining a compartments as broadly claimed and a rotatable handle means 40+ located and operable as broadly claimed.

Re claims 15 and 16, the device is deemed constructed as broadly claimed.

Re claim 17, while not explicitly stated, it is deemed inherent to the device that it comprises metal.

Re claim 18, bar 40 defines a grasping portion located as broadly claimed at least in the open position. Element 44+ defines a shaft portion as broadly claimed.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Udivich et al teaches a rack system for cylinders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Stephen Gordon 2-15-05*  
Stephen Gordon  
Primary Examiner  
Art Unit 3612

stg